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MEMORANDUM

TO: ALL NATIONAL SCHOOL LUNCH PROGRAM SPONSORS

FROM: Pat Cook and Katherine Stewart, Consultants
Office of Child Nutrition and School Health

SUBJECT: Food Safety Questions and Answers

Enclosed for your information are questions and answers on the food safety provisions of the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 104-265). This memo will also be posted on the Food and Nutrition Service website at:

<http://www.fns.usda.gov/cnd>

As you know, United States Department of Agriculture (USDA) published an interim rule in the *Federal Register* on June 15, 2005, implementing the requirement that schools obtain two food safety inspections each school year. In addition, on June 10, 2005, USDA issued *Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles*. Hard copies of the HACCP guidance are being mailed to school food authorities. Both these documents are also on USDA's web site.

Food Safety Inspections

1. Will USDA define what the food safety inspections must include? Will the food safety inspection cover the HACCP Plan that schools are required to have in place?

USDA does not have the authority to define the content of the food safety inspections. The State or local public health agency is responsible for the content of the food safety inspections. State or local authorities responsible for such inspections adopt standards, such as the Food Code, to guide their inspection process.

2. Is the expectation that school food authorities will solicit the health department to do the additional inspection, or will the State agency who oversees the local health departments inform the health departments that a second inspection is needed?

We encourage State agencies to contact their State and/or local agencies responsible for food safety inspections to help facilitate schools' compliance with the new requirements. At the Federal level, Food Nutrition Services (FNS) has sent letters to the associations representing State and local food safety regulators and inspectors to inform them about the new requirements and to seek their cooperation. Ultimately, it is each school food authority's responsibility to obtain the required inspections.

3. Must the two inspections be done at school kitchens that are production facilities or at all schools, including satellite kitchens where foods are only served but not prepared?

Inspections must be conducted at any school that participates in the school lunch program or school breakfast program.

4. There is a new requirement for inspection reports. Who will do the inspection reports, the State Department of Education or State Department of Health? Does USDA have a required form for the report? Should schools report directly to FNS or to the State first?

State agencies that administer the school meal programs, most often the State Department of Education but sometimes the State Department of Agriculture, are required to monitor the number of inspections completed in each school food authority and report the data to USDA. Food safety regulators are not responsible for filing the reports with USDA. At present we are considering two options for State agencies to report the number of food safety inspections completed by schools under their jurisdiction. One option is to use an existing reporting form; the second option is to report the data electronically. At this time, USDA does not have a required form for the report. The first report will be due to USDA from States in November 2006.

5. Most schools have a good food safety record; why is it necessary to increase the number of food safety inspections? Shouldn't we make the requirement for inspections risk-based rather than simply setting a mandatory number per year?

There is increasing media and public interest in the safety of school meals. In response, Congress established this statutory requirement. USDA has no discretion to change it.

6. What are the ramifications of non-compliance with the inspection requirement?

We anticipate that State agencies that administer the school meal programs will work closely with schools that have difficulty meeting this requirement. In addition, we expect that State agencies will work with the food safety regulators to remove barriers that may hinder school compliance with the inspection requirement. Although there might be a transition period during which some schools develop mechanisms to obtain two inspections, we anticipate that schools and State agencies will do their best to meet program requirements.

7. Is the State agency required to monitor the results of the school food safety inspection?

States are not expected to monitor or track the results and required follow-up of every food safety inspection. However, during regularly scheduled monitoring visits, State agencies should assess whether school food authorities are meeting the food safety inspection requirements for all schools under their jurisdiction, and ensure that schools are taking corrective action based on findings in their inspections.

8. May schools do a self-inspection and comply with the law?

The National School Lunch Act requires that food safety inspections be conducted by the State or local governmental agency responsible for inspections.

9. Does the Local Education Agency (LEA) qualify as the State or local government agency responsible for food safety inspections?

No. The Reauthorization Act requires that the food safety inspections be conducted by the State or local governmental agency responsible for food safety inspections. "Local educational agency" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

10. May a school or school food authority with a strong HACCP plan obtain only one food safety inspection per year?

No. The law does not exempt schools or school food authorities with effective HACCP plans from complying with the food safety inspection requirement.

11. Are schools offering the Special Milk Program (SMP) required to have two food safety inspections annually?

No. The SMP is for institutions that do not participate in the school lunch or breakfast programs. Since the language in section 9(h) of the National School Lunch Act refers to schools participating in the school lunch or breakfast programs, SMP-only schools are not required to comply with this provision.

12. Must schools that contract with a Food Service Management Company (FSMC) to manage food service operations comply with the requirement of two food safety inspections per year?

Yes. A school that contracts with an FSMC retains control of the quality and general nature of the food service operation. A school that has entered into an agreement to participate in the NSLP or SBP must abide by all program requirements.

13. May a school count a food safety inspection conducted as part of the Summer Food Service Program or the Child and Adult Care Food Program as part of the two food safety inspections required per school year?

Yes, as long as the inspection covers the same preparation facilities and similar food services.

Hazard Analysis and Critical Control Point (HACCP) Requirement

14. Who must have a food safety program based on HACCP principles? Schools? Summer food service sites? Child care and adult care sites? Head Start sites?

Schools participating in the National School Lunch and/or School Breakfast Programs are required to implement a food safety program based on HACCP principles.

15. Why are HACCP-based programs being required for schools?

The Reauthorization Act requires that school food safety programs be based on HACCP principles. Food safety regulators view HACCP as a food safety management system that effectively prevents food safety hazards.

16. What are the elements of a school food safety program based on HACCP principles?

In accordance with USDA guidance issued June 10, 2005, a school food safety program must include the following elements: documented standard operating procedures and a written plan at each school food preparation and service site for applying HACCP principles. The written plan must include methods for documenting menu items in the appropriate HACCP process category; documenting critical control points of food production; monitoring; establishing and documenting corrective actions; record keeping; and reviewing and revising the overall food safety program.

17. Who is responsible for implementing the school food safety program based on HACCP principles in schools?

School food authorities must develop the food safety program for the food preparation and service sites under their jurisdiction. Food service managers/cafeteria managers at each school are responsible for implementation at their food service and preparation sites.

18. When must a HACCP program be implemented?

The food safety provisions of Reauthorization are effective July 1, 2005. Therefore, schools should be implementing their HACCP programs during School Year 2005-2006.

19. What if my district already has HACCP plans in place?

School food authorities that currently have food safety programs based on HACCP principles may retain their existing program after consultation with the State agency to ensure that they meet all requirements.

20. I use the USDA recipes which include HACCP Critical Control Points. Isn't that my HACCP plan?

No. Recipes that include critical control points are one valuable component of a food safety program. In accordance with USDA guidance issued June 10, 2005, a complete food safety program must also include documented standard operating procedures, documentation of menu items in the appropriate HACCP process category, monitoring, establishment and documentation of corrective actions, record keeping and review and revision of the program on a regular basis.

21. Must I use recipes that have HACCP Critical Control Points? Must I use standardized recipes as part of my HACCP plan?

There is no requirement to use recipes with critical control points identified. The USDA guidance issued on June 10, 2005, provides a method (the process approach) to identify critical control points. USDA does, however, encourage the use of standardized recipes as good management practice.

22. Where can I go for information? Who will provide training and technical assistance?

As with any program questions, you should go first to your State agency for guidance. Other resources and links can be found on the USDA Food and Nutrition Service web site at: www.fns.usda.gov/cnd. The National Food Service Management Institute (NFSMI) also provides training and technical assistance. For more information you can visit the NFSMI web site at: www.nfsmi.org or call the NFSMI Help Desk at: 800-321-3054.

23. What is the role of my health inspector? Will the food safety inspection cover our HACCP Plans?

Your health inspector continues in the role that he/she currently fills. He/she is the authority responsible for providing food safety inspections for your operation. The Reauthorization Act of 2004 does not require the inspectors to approve, evaluate, monitor or validate the HACCP Plans, though we anticipate that the food safety inspections already cover some HACCP-related elements.

24. Who will assure my compliance with the requirement? What happens if I don't meet the requirement?

State agencies that administer the school meal programs provide compliance assistance and ensure that school food authorities and program operators meet program requirements. Whenever there are compliance problems, State agencies will assess the need for technical assistance or other measures.

25. May food safety regulators provide HACCP training to schools?

Schools are free to determine the source of the training they receive. USDA issued guidance on June 10, 2005, listing the specific elements required in the HACCP programs that schools must develop. The school should ensure that training is consistent with USDA guidance. As an example, NFSMI is a reliable source for training and technical assistance to program operators.

26. Who will validate the HACCP plans developed by each school---the local health department or would an independent company be hired to do this validation procedure?

School food authorities must conduct periodic assessments of their food safety program based on HACCP principles to ensure that it is working according to the written plan. USDA does not require that school food authorities use State or local departments of health or hire independent organizations to validate the program. The State agency that administers the school meal programs is available to assist with implementation.

Funding

27. Is there any additional funding to cover the expenses involved with implementing either the inspection or HACCP requirements?

Schools may use the foodservice account to pay for costs related to the new food safety requirements. The increases in the fees related to the food safety inspections and other costs related to the HACCP requirement are legitimate costs of managing the school lunch program